



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
**DEPARTMENT ON DISABILITY SERVICES**

<b>POLICY</b>	
Department on Disability Services	Subject: Protection, Use, and Release of Personal Information
Responsible Program or Office: Rehabilitation Services Administration	Policy Number: Year-admin-abbreviated subject-POL consecutive three-digit-number
Date of Approval by the Director:	Number of Pages:
Effective Date: <i>Must be equal to or later than the Date of Approval by the Director</i>	Expiration Date, if Any:
Supersedes Policy Dated: Section XI DCRSA Policy Manual (2010) – Policy on Release of Information	
Cross References, Related Policies and Procedures, and Related Documents: 29 DCMR § 118, DCRSA Case record policy	

## **1. PURPOSE**

The purpose of this policy is to ensure that the Department on Disability Services, Rehabilitation Services Administration (“DCRSA” or “Agency”) shall protect the confidential nature of all personal information as required in 34 CFR § 361.38 and 29 DCMR § 118

## **2. APPLICABILITY**

This policy applies to Vocational Rehabilitation (VR) Specialists, supervisors, administrators, and people whom DCRSA serves.

## **3. AUTHORITY**

The authority for this policy is established in DDS as set forth in D.C. Law 16-264, the “Department on Disability Services Establishment Act of 2006,” effective March 14, 2007 (D.C. Code 7-761.01 *et seq.*), and Establishment of the Rehabilitation Services Program (D.C. Code § 32-331 *et seq.*), Use and Confidentiality of Individual Information (29 DCMR § 118), Protection, Use, Release of Personal Information (34 CFR § 361.38), and Reports, Evaluation Standards, and Performance Indicators (34 CFR § 361.40).

## **4. POLICY**





DCRSA employees are responsible for complying with the legal requirement to protect the confidential nature of information in individual case files including all individuals' identifying information contained in reports, lists, and other paper or electronic documents, and for prohibiting unauthorized access. All personnel shall maintain a professional respect for the confidential nature of the data on individuals and refrain from indiscreet and/or casual conversation that might reveal to unauthorized persons information concerning individuals receiving services from DCRSA. In accordance with federal and state regulations, the District of Columbia will safeguard the confidentiality of all personal information as required in 34 C.F.R. § 361.38 (c - d) and 29 DCMR §118.

It is the policy of DCRSA to inform all applicants and eligible individuals of the confidentiality of personal information and the conditions for accessing and releasing information through appropriate modes of communication consistent with informed choice (see informed choice policy). The VR Counselor shall explain whether providing requested information to DCRS is mandatory or voluntary and the effects of not providing the requested information.

An individual's information may be released by DCRSA under the following circumstances:

- A. When authorized, in writing, by the individual,
- B. In response to a valid subpoena, court order, or judicial or administrative proceeding concerning the individual,
- C. When required by federal law or regulation in accordance with 34 CFR §361.38(e)(3). VR records shall be matched with State quarterly wage records in order to comply with the performance accountability requirements of Sec. 116 of the Workforce Innovation and Opportunity Act (WIOA),
- D. For use during an audit, evaluation or research, if the following are met:
  - 1) It relates to the administration of vocational rehabilitation services in accordance with 34 CFR § 361.38(b); or significantly improves the quality of life for applicants or eligible individuals;
  - 2) It complies with 34 CFR §361.38 (d) (1 through 5),
- E. DCRSA may also release personal information in order to protect the individual or others if the individual poses a threat to his or her safety or the safety of others as stated in 34 CFR §361.38.

The VR Counselor shall obtain written authorization from the individual prior to requesting documentation from outside sources for the purpose of establishing eligibility and/or coordinating VR case management activities.





## **5. RESPONSIBILITY**

The responsibility for this policy is vested in the Deputy Director, of the Rehabilitation Services Administration. Implementation of this policy is the responsibility of the Rehabilitation Services Administration.

## **6. STANDARDS**

### **A. Written Authorization to obtain or release information**

Written authorization to obtain or release information shall be documented using a signed DCRSA Informed Consent form. The VR Specialist shall explain to the individual the purpose of the Informed consent, what information will be requested/released, who will be releasing/receiving the information, and how that information will be used. VR Specialists shall comply with the Health Insurance Portability and Accountability Act (HIPAA) in regards to obtaining and releasing information.

In the event that an individual requests the presence of a support person during a meeting with DCRSA, the Agency may disclose personal information during the meeting without first obtaining written consent from the individual or individual's representative. The VR Specialist shall explain to the individual that by inviting a third-party to participate in a meeting with the Agency, the individual is considered to have provided implied consent to release information in the presence of the third party during the meeting.

### **B. Release to an Individual or Representative**

When information is released to the individual, or the individual's representative, personal information in the file obtained from another Agency or organization can be released only by, or under the conditions established by the other (external) Agency or organization in accordance with 34 CFR § 361.38(3). DCRSA shall refer the individual to the source to obtain this information.

The counselor shall make appropriate Agency information in the individual's case file accessible to the individual or the individual's representative, and if requested, release it to the individual or the individual's representative, in a timely manner. The request must be submitted in writing by the individual or by the individual's representative, and the representative shall have something in writing stating that the individual authorized that person to act on his/her behalf.



A relative or representative of the individual may not review or receive records without written authorization by the individual, unless the individual is a minor, or; a representative or legal guardian has been appointed by the court. In the case of a minor, the parent may be considered the authorized representative. Information must be released to the court-appointed representative or guardian.

## HARMFUL INFORMATION

Medical, psychological, or other information the counselor, in consultation with his/her supervisor, believes may be harmful to the individual shall not be released directly to the individual. Such information shall be released through a representative designated in writing by the individual, who may include, among others, an advocate, a family member, or qualified medical or mental health professional. See 34 CFR §361.38 (c) (2) and 29 DCMR §118.10.

Medical, psychological, or other information, which the counselor, in consultation with his/her supervisor, believes may be harmful to the individual, may be released to an agency or organization, if RSA receives assurance that (a) it will only be used for the purpose in which it is being provided; and (b) it will not be released to the individual. See 34 CFR §361.38 (e) (2).

### B. Release to a Court or Administrative Body

DCRSA may release the individual's information in response to an order, subpoena, or summons issued by a court or other judicial body under state or federal rules of civil or criminal procedure. The document may be signed by the judge, magistrate, administrative law judge or hearings officer, clerk of court, or by any official who is authorized by law to issue subpoenas. See 34 C.F.R §361.38.

All personnel are required to immediately (within 24 hours) provide a copy of a subpoena, court order or other judicial or administrative document to the DDS Office of General Counsel. The DDS Office of General Counsel will determine which information may be released in accordance with this Section.

### C. Release for a Purpose Directly Connected with the Administration of the Individual's VR Program

Provisions of the individual's IPE determine the scope of the individual's rehabilitation.

The regulations provide that an individual's information may be released for a purpose directly connected with his or her rehabilitation. Counselors are required



to obtain written authorization and informed consent from the individual prior to releasing information to an organization or individual.

The VR counselor shall explain and confirm that the individual understands the authorization to release information prior to signing. VR counselor shall explain what information will be released, who will receive the information, and how the information will be used?

D. Release for Research or Evaluation

Written authorization must be obtained from the individual to release information to the organization or person engaged in audit, evaluation, or research for a purpose that could significantly improve the quality of life for persons with a disability. See 34 CFR §361.38(d).

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Andrew Reese, Acting Director

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Approval Date